GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri D.V.Naik, S/o Pita Naik R/o Prakasam District against the proceedings Rc.No.C4/402/2013, dated 02.09.2014 of the District Collector, Prakasam under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders - Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.MS.No. 63 Dated: 16-05-2018

Read the following:

1. Proceedings of the District Collector, Prakasam, Lr.No.Rc.No. C4/402/2013, dated 02.09.2014.
2. The Order of the Hon'ble High Court of A.P., Hyderabad in W.P.No.27726/2015, dated 31.08.2015 filed by Sri D.V.Naik.
3. Appeal Petition filed by Sri D.V. Naik, S/o Pita Naik, C/o Syed Peeravalli, C/o Bandi Saheb, Eastpallem, Podili, Prakasam District, dated:09.09.2015.
4. Govt. Memo No.7521/CV.2/2015, dated 28.10.2015.
5. From the District Collector, Prakasam, Lr.No.COPKLM-CSEOVC(VER)/22/2016-SA(C4)-COLPRK, dated 20.07.2016.
6. Govt. Memo No.7521/CV.2/2015, dated 02.12.2016 & 12.01.2017.
7. Xerox copies submitted by the Appellant before the Government, dated nil.
8. Govt. Memo No.7521/CV.2/2015, dated 29.05.2017 & 30.06.207.

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ORDER:

In the reference 1st read above, the District Collector, Prakasam has issued orders cancelling ST-Sugali caste certificate obtained from the then Mandal Revenue Officer, Dornala by Sri Devisetty Venkateswarlu @ Desavat Venkateswarlu Naik S/o Balaiah.

2. In the reference 2nd read above, Sri D.V.Naik, S/o Pita Naik has filed W.P.No.27726/2015 before the Hon'ble High Court of Andhra Pradesh, Hyderabad against the proceedings of the District Collector, Prakasam dated 02.09.2014. The Hon'ble High Court of A.P., Hyderabad while disposing the said WP on 31.08.2015 has directed the petitioner to file statutory appeal under the provisions of Section 7 of Act 16/1993 before the State Government within a period of (2) weeks from the date of receipt of the order, if any such appeal is filed within the time stipulated, the Government be consider the same and pass appropriate orders, in accordance with law, after giving notice and opportunity of being heard to the petitioner.

3. In the reference 3rd read above, Sri D.V.Naik, S/o Pita Naik, has filed an Appeal Petition, before the Government, as per the directions of the Hon'ble High Court of A.P., Hyderabad in W.P.No.27726/2015, dated 31.08.2015, against the Proceedings of the District Collector, Prakasam. After examining the said Appeal Petition, Government have admitted the Appeal Petition and called for the parawise remarks and connected records from the District Collector, Prakasam in the reference 4th read above. The District Collector, Prakasam has furnished connected records, parawise remarks on the said appeal petition in the reference 5th read above.

4. The said Appeal Petition has been posted for hearing on 24.12.2016, 24.01.2017, 17.06.2017 & finally on 15.07.2017 and the same has been informed to the Appellant and the Counsel for the Appellant in the references 6th & 8th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. In the reference 7th read above, the appellant have submitted Xerox copies before the Government in support of the ST-Sugali community claim.

[P.T.O]

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, Prakasam and proceedings of the District Collector, Prakasam dated 02.09.2014 the Appellate Authority is observed that :

I. The appellant in his grounds has stated that he belongs to Schedule Tribe Sagali Community and he is native of Gantavanipalli, Doornala Mandal, Prakasham District and Thasildar after due verification issued the Schedule Tribe Certificate in the year 1989 about a more than year back, Thasildar Doornala called him and taken the signatures on some papers stating that there is an enquiry into his caste, but the contents of the same are not read over to him. In view of the above the whole decision making process was vitiated by non application of mind violation of the above Act and rules made there under and in violation of principles of natural justice.

II. The District Level Scrutiny Committee has observed that the Tashildar, Dornala has reported that Sri Devisettti Venkateswarulu @ Desavat Venkateswarlu Naik is originally belongs to OC-Balija Community. Sri Desavat Papanaik @ Vatte Naik is the neighbor of Devisetti Balaiah father of the Appellant. He has brought up from his childhood by Desavat Papa Naik (Sugali-ST) of the same village. He studied up to 5th Class in MPE School, Chilakacherla village of Dornal Mandal Finally he reported that the Appellant belongs to OC-Balija. Further, it is observed that the Appellant has attended before the DLSC on 24.01.2014 & 28.02.2014 for enquiry, in his written statement, he has committed that he originally belongs to OC-Balija. He adopted to a Sugali family from his childhood, obtained ST-Sugali caste certificate. Further, he has also agreed before the DLSC that he did not produced any documentary evidences for his adoption. Finally, based on the DLSC findings, the District Collector, Prakasam has cancelled the appellant's ST-Sugali caste certificate.

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The Appellate Authority is observed that during the course of hearing of the case, the appellant submitted his arguments as per his grounds in appeal petition and stated that the lower authority failed to observe that he was adopted to Sugali family and brought up within that family as such he is able to prove his case as he belongs to ST Sugali community. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that except the above contention nothing was placed for appreciation of the case of the appellant and he failed to produce any documentary evidence by producing valid document to prove his adoption to ST Community family and further noticed that the appellant is not in the fold of ST Community. It is further brought to the notice that the certificate earlier issued to the individual in a routine manner and the same was cancelled after conducting detailed and through enquiry into the caste status of the individual. Thus, as per the Act 16/1993, that the burden of proof lies on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. In the instant case, the appellant except relaying the evidence filed before the lower authority failed to produce any material more particularly the evidence of adoption for appreciation of the case on hand. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity either in the findings of the DLSC or the learned District Collector, Prakasam District. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference.

[Contd..on P.3]

6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed by Sri D.V.Naik, S/o Pita Naik, does not deserve any interference. Hence, Proceedings of the District Collector, Prakasam issued vide Rc.No.C4/402/2013, dated 02.09.2014, is hereby upheld and the Appeal Petition filed by Sri D.V.Naik, S/o Pita Naik, is hereby dismissed and the Certificate issued by the then Mandal Revenue Officer, Dornala deemed to be cancelled.

7. The District Collector, Prakasam is directed to take necessary consequential action in the matter.

8. The records (containing Rc.No.C4/402/2013, pages: CF: 1-102 & NF: 1-23) received from the District Collector, Prakasam through in the reference 5th read above, are returned herewith in original to the District Collector, Prakasam and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Prakasam.(BY RPAD)
(with original records).

Sri D. V. Naik, S/o Pita Naik,
C/o Syed Peeravalli, C/o Bandi Saheb,
Eastpallem, Podili, Prakasam District. Pin: 523 240.

The Depot Manager, APSRTC,
Kanigiri Depot,
Prakasam District.

Copy to :
The Director, TCR& TI, AP, Amaravathi.
The PS to M(SWE& TWE).
The PS to Principal Secretary(SW&TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER